



**6712-01**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 10 and 11**

**[PS Docket No. 15-91; PS Docket No. 15-94; FCC 17-143]**

Wireless Emergency Alerts; Emergency Alert System

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) grants the petition filed by CTIA for reconsideration the Commission's recent decision to revise its Wireless Emergency Alert (WEA) rules and grants in part and denies in part the Competitive Carrier Association's (CCA) request for a waiver or extension of time. Specifically, the Commission extends the timeframe for compliance with the requirement in the WEA Report and Order that Participating CMS Providers provide "clickable" embedded references in WEA messages from 12 months to 30 months except for AT&T, Verizon, T-Mobile, Sprint and U.S. Cellular. This document also clarifies that the requirement for "clickable" embedded references encompass phone numbers and other types of embedded references, and that our embedded reference requirement applies to new devices as well as existing devices capable of supporting this feature through a software upgrade. Finally, this document denies CCA's request for a waiver or an extension of time for compliance with the geo-targeting requirements.

**DATES:** Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Gregory Cooke of the Public Safety and Homeland Security Bureau, Policy and Licensing Division, [gregory.cooke@fcc.gov](mailto:gregory.cooke@fcc.gov), (202) 418-2351.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s Order on Reconsideration in PS Docket No. 15-91, No. 15-94, FCC 17-143, released on November 1, 2017. The document is available for download at [https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-17-143A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-17-143A1.pdf). The complete text of this document is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY-A257, Washington, DC 20554. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

### **Supplemental Regulatory Flexibility Analysis**

1. This Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) supplements the Final Regulatory Flexibility Analysis (FRFA) of the September 2016 WEA Report and Order, 81 FR 75710 (*WEA R&O*) to reflect the actions taken in this Order on Reconsideration and conforms to the RFA.

### **Need for, and Objective of, the Order**

2. In the WEA R&O, we took advantage of the significant technological changes and improvements experienced by the mobile wireless industry since the passage of the Warning, Alert and Response Network (WARN) Act, and deployment of WEA to improve the utility of WEA as a life-saving tool. As pertinent to the Order on Reconsideration we adopt today, in the WEA R&O we adopted rules focused on improving WEA message content by narrowing the rules for the geo-targeting of alerts, requiring Participating Commercial Mobile Service (CMS) Providers to support embedded references (i.e., URLs and phone numbers) included in WEA

Alert Messages. In doing so, we set a deadline for compliance with the embedded reference requirement of one year (12 months).

3. In this Order on Reconsideration, we grant, to the extent described herein, CTIA's Petition for Reconsideration of the WEA R&O and CCA's Petition for Waiver, or in the Alternative, Extension of Time. In doing so, we deny CCA's request for a waiver or an extension of time for compliance with the WEA R&O's best approximates geo-targeting standard, as compliance with the best approximate geo-targeting is well within the capabilities of CCA's members; and we reconsider the deadline for compliance with the embedded reference requirement from one year (12 months) to 30 months for all Participating CMS Providers except for AT&T, Verizon, T-Mobile, Sprint and U.S. Cellular, because these CMS Providers have indicated their ability and intent to meet the November 1, 2017 deadline for embedded references adopted in the WEA R&O. The actions we take today allow us to continue to advance down the path outlined in the WEA R&O while supplying additional time for compliance to smaller entities (i.e., small and regional carriers) with respect to the embedded reference requirement adopted therein.

#### **Summary of Significant Issues Raised by Public Comments in Response to the IRFA**

4. In light of reconsideration, waiver, and extension requests, the Commission considered the potential impact of the rules proposed in the IRFA on small entities and reduced the compliance burden in order to reduce the economic impact of the rules enacted herein on such entities.

#### **Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration**

5. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rule(s) as a result of those comments.

6. The Chief Counsel did not file any comments in response to the proposed rule(s) in this proceeding.

**Description and Estimate of the Number of Small Entities to Which the Rules Would Apply**

7. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

8. As noted above, a FRFA was incorporated into the WEA R&O. In that analysis, we described in detail the small entities that might be significantly affected by the rules adopted in the WEA R&O. Those entities may be found in a number of services including, e.g.: wireless telecommunications carriers, broadband Personal Communications Service, narrowband Personal Communications Service, Wireless Communications Services, Advanced Wireless Services, lower and upper 700 MHz Band licenses, software publishers, and radio and television broadcasting and wireless communications equipment manufacturing. In this Order

on Reconsideration, we hereby use the descriptions and estimates of the number of small entities from the previous FRFA in this proceeding.

**Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities**

9. The data, information and document collection required by the WEA R&O as described in the previous FRFA in this proceeding is hereby used. The actions taken in this Order do not amend or otherwise revise those requirements, except to supply additional time for compliance with one of the requirements, i.e., embedded references in WEA messages.

**Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered**

10. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) and exemption from coverage of the rule, or any part thereof, for small entities.

11. The analysis of the Commission's efforts to minimize the possible significant economic impact on small entities as described in the previous FRFA in this proceeding is hereby incorporated by reference. Additionally, in this Order, in response to concerns raised by small entities, i.e., small and regional carriers, the Commission is supplying additional time, until May 1, 2019, for all carriers (apart from the five) to comply with the embedded reference requirement.

## **Report to Congress**

12. The Commission will send a copy of this Order, including this Supplemental FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the Commission will send a copy of this Order, including the Supplemental FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of this Order and Supplemental FRFA (or summaries thereof) will also be published in the Federal Register.

## **Synopsis**

13. In this Order on Reconsideration, we reaffirm our existing schedule for geo-targeting alerts to best approximate the target area and reaffirm that the five largest mobile service providers must provide clickable embedded references by November 1, 2017, but we extend the timeline for smaller, regional wireless providers to come into compliance with that requirement. These actions ensure that smaller, regional wireless providers remain part of the Wireless Emergency Alerts (WEA) system while maximizing the deployment of more effective wireless emergency alerts to consumers.

14. In September 2016, the Commission adopted the WEA Report and Order, 81 FR 75710 (WEA R&O), which eliminated the prohibition on the use of embedded references in non-Presidential Alerts and required Participating CMS Providers to support embedded references within one year of the rules' publication in the Federal Register. Among other issues, CTIA timely petitioned the Commission to reconsider, or, in the alternative, clarify this requirement.

15. CTIA requests that the Commission defer mandating implementation of embedded references until after feasibility testing is completed (i.e., testing whether embedded references

in WEA alerts would cause harmful network congestion) and the requirements for compliance are clarified (e.g., that the Commission is requiring embedded reference capability only for new devices).

16. CTIA makes three arguments: mandating compliance before comprehensive feasibility testing may lead to substantial network congestion; testing, prior to mandating compliance, is necessary to determine the feasibility of supporting embedded references; and the compliance deadline has no sound basis in the record.

17. On August 16, 2017, the CCA filed a Petition for Waiver, or in the Alternative, Extension of Time, requesting a waiver or extension of the compliance timeline for support for embedded references until May 1, 2019, consistent with CTIA's request. CCA further requested a waiver or extension of time for compliance with the WEA R&O's geo-targeting requirement until May 1, 2019.

## **DISCUSSION**

### **Timeframe for Supporting Basic Geo-Targeting**

18. CCA requests that we waive or delay the November 1, 2017 deadline for basic geo-targeting (known as best approximates geo-targeting). We decline the request and reaffirm the current schedule for the deployment of basic geo-targeting for wireless emergency alerts.

19. The basic geo-targeting standard is designed to be flexible and to take into consideration the specific capabilities of each Participating CMS Provider. In the WEA R&O, the Commission set forth the expectation that Participating CMS Providers will take reasonable efforts to leverage existing technology to its fullest extent and articulated potential techniques and benchmarks for basic geo-targeting. As the Commission noted when it adopted the initial rules for WEA, the system is technologically neutral, and Participating CMS providers are in

the best position to select and incorporate the technologies that will enable them to most effectively and efficiently deliver mobile alerts.

20. Although CCA asserts that many of its members cannot comply with the standard because they are still transitioning from 2G and 3G to 4G technologies and because the standards applicable to best approximates” are still in development, we reject CCA’s contention that its ability to meet the basic geo-targeting standard is affected in any way by a particular technology such as cell broadcasting. Rather, we anticipate that CCA’s members, like other Participating CMS Providers, will continue to employ the techniques that they have been deploying as a matter of best practice. Accordingly, given the inherent flexibility in the best approximates geo-targeting standard, we find no basis for granting relief from this requirement.

#### **Timeframe for Supporting Embedded References**

21. CTIA and CCA request we revise the compliance timeframe for the embedded reference requirement. We decline to do so for the five largest Participating CMS Providers—Verizon, AT&T, Sprint, T-Mobile, and U.S. Cellular—who have indicated that they are able to and intend to support embedded references on smartphones capable of processing them by the November 1, 2017 deadline. We observe that the WEA R&O explicitly made clear that the embedded reference requirement can be enabled through software updates, and that Participating CMS Providers could implement the necessary changes to their software to make the embedded reference capability available to customers. Mobile devices that support neither embedded references nor the software updates that would provide such capability will not be considered WEA capable.



22. We nonetheless grant 18 months of relief to smaller, regional operators—specifically, all Participating CMS Providers other than the largest five—so that they will have additional time to deploy network upgrades and learn from the deployment experiences of the largest Participating CMS Providers on how best to ensure embedded references are smoothly integrated into the WEA system.

23. CCA argues that its members, which are smaller and regional providers, have fewer resources, and that 18 additional months is sufficient time to implement the embedded references requirement. We agree. As CCA notes, smaller and regional wireless providers within its membership do not participate in the Alliance for Telecommunications Industry Solutions’ (ATIS) standards-setting process and may need additional time to review and implement these standards. Further, as CCA notes, the capabilities necessary for some providers to implement enhanced WEA requirements are still in flux. For example, carriers that are currently participating in the WEA program through an application-based solution need additional time to coordinate, test, and implement updates to current standards. This transition may necessitate additional time for compliance, coordination, and testing. As the Commission has otherwise found, 30 months from the rules’ publication in the Federal Register, i.e., May 1, 2019, is sufficient time to comply with WEA requirements that necessitate the development of standards and software, testing, and deployment, and we find this time frame to be sufficient and necessary for Participating CMS Providers (apart from the five largest) to comply with the embedded references deadline, particularly given the difficulties that CCA has described in its Petition. We anticipate that this relief will dissuade CCA members from withdrawing from WEA participation because they cannot comply with the embedded references requirement by the November 1, 2017 deadline.

24. Finally, we are aware that there will be a short period of time between the original November 1, 2017 deadline for embedded references and the publication of this Order on Reconsideration in the Federal Register, notwithstanding that the record reflects good cause for such relief being immediately effective. Accordingly, to the extent necessary to support the decision in this Order on Reconsideration, we waive the November 1, 2017 deadline for all Participating CMS Providers, except for AT&T, Verizon, T-Mobile, Sprint and U.S. Cellular, until the publication of this Order in the Federal Register.

## **PROCEDURAL MATTERS**

### **Accessible Formats**

25. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

### **Paperwork Reduction Act**

26. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. Therefore, it does not contain any new or modified information collection burdens for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

### **Congressional Review Act**

27. The Commission will send a copy of this Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act. See 5 U.S.C. 801(a)(1)(A).

### **Supplemental Final Regulatory Flexibility Analysis**

28. As required by the Regulatory Flexibility Act of 1980, as amended, we have prepared a Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) addressing the actions taken in this Order.

#### **Additional Information**

29. People with Disabilities. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

30. Additional Information. For additional information on this proceeding, contact Gregory Cooke of the Public Safety and Homeland Security Bureau, Policy and Licensing Division, [gregory.cooke@fcc.gov](mailto:gregory.cooke@fcc.gov), (202) 418-2351.

#### **ORDERING CLAUSES**

31. Accordingly, IT IS ORDERED, pursuant to Sections 1, 2, 4(i), 4(o), 301, 303(r), 303(v), 307, 309, 335, 403, 624(g), and 706 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(o), 301, 301(r), 303(v), 307, 309, 335, 403, 544(g), and 606, as well as by sections 602(a),(b),(c), (f), 603, 604 and 606 of the WARN Act, 47 U.S.C. 1202(a),(b),(c), (f), 1203, 1204 and 1206, that the CTIA Petition is granted to the extent specified herein and denied to the extent specified herein.

32. IT IS ALSO ORDERED, pursuant to Sections 1, 2, 4(i), 4(o), 301, 303(r), 303(v), 307, 309, 335, 403, 624(g), and 706 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(o), 301, 301(r), 303(v), 307, 309, 335, 403, 544(g), and 606, as well as by sections 602(a),(b),(c), (f), 603, 604 and 606 of the WARN Act, 47 U.S.C.

1202(a),(b),(c), (f), 1203, 1204 and 1206, that the CCA Petition is granted to the extent specified herein and denied to the extent specified herein.

33. IT IS ORDERED, pursuant to Sections 1, 2, 4(i), 4(o), 301, 303(r), 303(v), 307, 309, 335, 403, 624(g), and 706 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(o), 301, 301(r), 303(v), 307, 309, 335, 403, 544(g), and 606, as well as by sections 602(a),(b),(c), (f), 603, 604 and 606 of the WARN Act, 47 U.S.C. 1202(a),(b),(c), (f), 1203, 1204 and 1206, that the Order on Reconsideration in PS Docket Nos. 15-91 and 15-94 IS HEREBY ADOPTED.

34. IT IS FURTHER ORDERED that, as set forth in this Order, that except for AT&T, Verizon, T-Mobile, Sprint and U.S. Cellular, for which the operative date for this requirement remains November 1, 2017, the operative date of the requirement imposed by 47 CFR 10.441, published at 81 FR 75710, is delayed until May 1, 2019, the date other rules and amendments adopted by the WEA R&O were made effective (30 months from the publication of the WEA R&O in the Federal Register, published at 81 FR 75710).

35. IT IS FURTHER ORDERED that the provisions of this Order on Reconsideration WILL BECOME EFFECTIVE immediately upon publication in the Federal Register.

36. IT IS FURTHER ORDERED that, effective upon the adoption of this order, that the requirements imposed by 47 CFR 10.441, published at 81 FR 75710, are waived to the extent set forth in this Order.

The rules in this part are issued pursuant to the authority contained in the Warning, Alert, and Response Network Act, Title VI of the Security and Accountability for Every Port Act of 2006, Pub. L. 109-347, Titles I through III of the Communications Act of 1934, as amended, and

Executive Order 13407 of June 26, 2006, Public Alert and Warning System, 71 FR 36975 (2006).

**List of Subjects**

47 CFR Part 10

Wireless emergency alerts.

47 CFR Part 11

Emergency alert system.

**FEDERAL COMMUNICATIONS COMMISSION**

**Marlene H. Dortch,**  
Secretary.

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